

Members

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Rep. Greg Steuerwald
Rep. Linda Lawson
Rep. Matt Pierce
Sen. Richard Bray
Sen. Randall Head
Sen. Greg Taylor
Sen. Lindel Hume
Judge John Marnocha
Judge Lance D. Hamner
Professor Craig Bradley
Attorney General Greg Zoeller
Commissioner Bruce Lemmon
David Powell
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CRIMINAL CODE EVALUATION COMMISSION

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Authority: P.L. 182-2009(ss)

MEETING MINUTES¹

Meeting Date: October 4, 2012
Meeting Time: 1:30 P.M.
Meeting Place: State House, 200 W. Washington
St., Room 431
Meeting City: Indianapolis, Indiana
Meeting Number: 4

Members Present: Rep. Ralph Foley, Chairperson; Rep. Greg Steuerwald; Rep. Matt Pierce; Sen. Richard Bray; Sen. Greg Taylor; Sen. Lindel Hume; Judge John Marnocha; Judge Lance D. Hamner; Attorney General Greg Zoeller; Commissioner Bruce Lemmon; David Powell; Larry Landis; Chief Justice Brent Dickson.

Members Absent: Rep. Linda Lawson; Sen. Randall Head; Professor Craig Bradley.

Chairperson Foley called the meeting to order at 1:35 p.m.

I. Probation Issues.

Don Travis, President of the Probation Officers Professional Association of Indiana,

¹ These minutes, exhibits, and other materials referenced in the minutes can be viewed electronically at <http://www.in.gov/legislative> Hard copies can be obtained in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for hard copies may be mailed to the Legislative Information Center, Legislative Services Agency, West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for hard copies.

testified that many probation departments throughout the state were lacking money. In 2011, Indiana probation departments served over 150,000 offenders, and even though HEA 1049-2012 permits courts to raise fees, there would still be a significant shortfall.

Probation funding is largely calculated based on the number of offenders rather than the time it takes to deal with each offender's case. The disparity between the funding and the actual workload creates a strain on probation departments. Even with the additional \$1.9 million funding that would be provided by proposed Preliminary Draft (PD) 3229, there would still not be enough money to adequately fund probation.

Mr. Travis also noted that Texas and Arkansas both recently reformed their criminal law system to make greater use of community corrections programs, and they have had great success in reducing recidivism through intensive supervision as part of their community corrections programs.

Chairperson Foley and Representative Pierce both stated that it is vitally important that legislators on the Commission make the financial committees in each house aware of the lack of probation funding. There needs to be additional and ongoing funding for these programs.

II. Protected Zones.

A. Professor Kelsey Kauffman

DePauw University Professor Kelsey Kauffman testified that Indiana has enhanced penalties for dealing drugs within 1,000 feet of school property, a public park, a family housing complex, or a youth program center (the "protected zone"). In many areas, particularly urban areas, the protected zones tend to overlap, in effect creating a very large protected zone. As of 2011, 53% of Indianapolis is covered by a protected zone. Professor Kauffman and her former students have put together maps that highlight the extensive protected zones in Marion County. These maps can be found online at: [http://dpwadweb.depauw.edu/\\$1~kkauffman/newdrugzonelaws/Maps.html](http://dpwadweb.depauw.edu/$1~kkauffman/newdrugzonelaws/Maps.html)

Because these zones are not marked, an offender is usually unaware that he or she is in a protected zone. In addition, it is extremely difficult to see the actions of others who are 1,000 feet away. Thus, the radius of the protected zones should be lowered to 100-200 feet, which would also reduce some of the overlap.

The Commission should also eliminate the youth program center protected zone, as it is unclear what actually constitutes a youth program center. In addition, the Commission should only include the boundaries of a park itself within a protected zone, and not include the area around the park. Finally, the drug enhancement for dealing within a protected zone should not apply in the dead of night because no children will be present.

Professor Kauffman also testified that protected zones should also apply to college campuses.

B. Lake County Prosecuting Attorney Bernard Carter

Lake County Prosecuting Attorney Bernard Carter testified on behalf of the Indiana Prosecuting Attorney Council (IPAC). IPAC supports the existing protected zones and believes that the legislature should do everything it possibly can to make streets drug free. Drug dealing is the intentional act of an individual based on greed, so drug dealers should

be punished to the fullest extent of the law. There are many instances in Lake County where drug dealers who are selling drugs close to schools limit the amount of drugs on their person so that they will not be eligible for a Class A felony. Offenders typically are aware of the protected zones.

Currently, 34 states have protected zones. Regardless of whether or not the protected zones are a deterrent, an offender should be punished for his or her actions. Indiana should consider legislation similar to Alabama, which has a three mile protected zone around its college campuses.

Representative Pierce stated that the protected zones need to be addressed legislatively during the upcoming session because this is a glaring problem. He noted that prosecutors use these zones as a tool for plea bargaining. Representative Steuerwald stated that if dealers have the intent to deal to students, the protected zones will have little impact.

In response to a comment from IPAC executive director David Powell, Representative Pierce stated that it might make sense to have separate crimes for dealing and manufacturing, since manufacturing may be the more serious offense.

Mr. Powell also stated that 1,000 feet may not be enough of a protected zone when it comes to manufacturing methamphetamine, due to the danger of explosion.

Chairman Foley adjourned the meeting at 3:15 p.m.